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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/986,987

11/13/2001

Takanobu Nishida

900-407

6028

23117 7590 06/18/2004

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EXAMINER

OLSEN, ALLAN W

ART UNIT

PAPER NUMBER

1763

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action****Application No.**

09/986,987

**Applicant(s)**

NISHIDA, TAKANOBU

**Examiner**

Allan Olsen

**Art Unit**

1763

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 24 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
**ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-20.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2/26/2004.  
10. ☐ Other: \_\_\_\_\_



Allan Olsen  
Primary Examiner  
Art Unit: 1763

## **ADVISORY ACTION**

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on February 26, 2004 was filed after the mailing date of the final Office action on February 23, 2004. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Response to Arguments***

Applicant's arguments filed May 24, 2004 have been fully considered but they are not persuasive.

Applicant's response of May 24, 2004 included the following:

"In the 'Response to Arguments' section on page 6 of the final Office Action the Examiner incorrectly alleges that Applicant's claims do not recite features of Applicant's argument (e.g., protection of an interlayer insulation film and avoiding bonding that would change the dielectric). The Examiner has obviously overlooked limitations of, e.g., independent claim 13 and dependent claims 14 and 15."

These limitations were not (obviously) overlooked! Rather, the above remark was made in view of the fact that Applicant's argument against the 102 rejection over Ohmi was based upon features that were not recited in the rejected claims. Applicant argues that claims 13-15 included limitations pertaining to these features. However, claims 13-15 were not rejected under 102 as being anticipated by Ohmi, and it was in arguments directed against the Ohmi rejection that Applicant sought to invoke features that were, in fact, not recited in the rejected claims, i.e., claims 1, 7, 10 and 12.

The after final amendment of May 24, 2004 incorporates a limitation into claim 1 that pertains to a feature that was previously relied upon but not previously included in claim 1. In the remarks that accompanied the after final amendment, Applicant states:

"It is respectfully requested that the independent claims now be properly considered, keeping in mind that the features sought by the Examiner are, in fact, included in these claims."

It is noted that the examiner did not suggest that the inclusion of these features would make the claims allowable. As such, claims directed to these features were not necessarily "sought" by the examiner. The absence of these features was merely pointed out because, in their absence, Applicant's arguments were irrelevant.

Applicant's additional arguments against the Ohmi rejection center around the notion that because Ohmi's objective is different from that of Applicant's objective it follows that Ohmi does not anticipate the claims. Applicant points out that their invention is directed to a photoresist ashing process. However, Applicant fails to acknowledge that Ohmi repeatedly teaches using the process for photoresist ashing (see, for example: column 3, line 5; column 5, line 8; ; column 17, lines 6 and 51 and column 18, lines 30-42). Applicant argues that because Ohmi teaches using chlorine type gases "Ohmi's gases cannot form a protective film". However, the above column and line citations repeatedly teach the classic ashing process, namely, oxygen ashing. Furthermore, column 18, lines 42-44 of Ohmi describe the formation of thin oxide film that appears analogous to the film that is described and claimed by Applicant.

The examiner notes that Ohmi's process is conducted while RF bias power is applied to the pedestal electrode that supports the substrate. With this being the case,

the examiner does not understand the relevance of Applicant's arguments on page 10 that pertain to a conducting an ashing process in the absence of an RF bias power.

Regarding the Kropewnicki reference, Applicant merely states that Kropewnicki has no description regarding the formation of a protective layer. The examiner wholeheartedly agrees and it is noted that this was previously acknowledged by the examiner. Applicant did not argue against the examiner's position that the formation of a protective film is inherent to the process of Kropewnicki.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Olsen whose telephone number is 571-272-1441. The examiner can normally be reached on M-F 1-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Mills can be reached on 571-272-1439. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Allan Olsen', is positioned above the typed name and title.

Allan Olsen  
Primary Examiner  
Art Unit 1763